



COMDTINST 5760.11A

AUG 25 1997

COMMANDANT INSTRUCTION 5760.11A

Subj: RELATIONS WITH THE COAST GUARD ACADEMY ALUMNI ASSOCIATION (CGAAA), THE COAST GUARD FOUNDATION (CGF) AND THE COAST GUARD ACADEMY PARENTS ASSOCIATION (CGAPA)

1. PURPOSE. This Instruction provides guidance on Coast Guard relations with the subject organizations.
2. ACTION. The Associations, Area and District Commanders, Commanders of Maintenance and Logistics Commands, Chiefs of Offices and Directors at Headquarters, Commanding Officers of Headquarters Units, Assistant Commandants for directorates and special staff divisions at Headquarters shall ensure compliance with the provisions of this Instruction.
3. DIRECTIVES AFFECTED. This Instruction is the sole authority for guidance concerning acceptance of gifts from the Associations and therefore supersedes conflicting guidance in COMDTINST 4001.1A, Gift Acceptance by Bands, Honor Guard and Drill Teams and COMDTINST M7300.4, Comptroller Manual, Volume I, Accounting. This policy will be clarified in a future change to the Financial Resource Management Manual, COMDTINST M7100.3A. COMDTINST 5760.11, Relations with the Coast Guard Academy Alumni Association and Coast Guard Foundation is canceled.
4. DISCUSSION. As a result of the National Performance Review, the Department of Transportation has implemented a major delegation of authority to Department of Transportation managers to accept gifts from non-Federal sources. In addition, recent changes in the laws and regulations governing Federal standards of ethical conduct have affected the manner in which individual Government employees may interact with non-Federal entities. This Instruction incorporates policy changes implementing this expanded delegation of authority and these recent standards of conduct related developments. Depending upon the nature of the gift and the purpose for which it is intended, gifts from the Associations may be accepted pursuant to the agency's authority under one or more of the following statutes: 10 U.S.C. §2601 (Coast Guard General Gift Fund);

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14 U.S.C. §92(d) and (f) (gifts of land or vessels for official Coast Guard duties and functions); 14 U.S.C. §93(h) (gifts of vessels, aircraft and vehicles for official Coast Guard duties and functions); and 49 U.S.C. §326 (general Department of Transportation gift acceptance authority) in accordance with the authority set forth in DOT(S-1) ltr of 30 May 95. Policy and procedure pronouncements in this Instruction are not intended to conflict with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635 (the Standards) or the guidance contained in the Coast Guard's internal policy on standards of conduct, Standards of Conduct, COMDTINST M5370.8 (series).

## 5. DEFINITIONS.

- a. Associations. For the purpose of this Instruction, The Coast Guard Foundation (CGF), the Coast Guard Academy Alumni Association (CGAAA) and the Coast Guard Academy Parents Association (CGAPA) will be referred to as "Associations" throughout the remainder of the body of this Instruction.
- b. Coast Guard Personnel. For the purposes of this Instruction, Coast Guard personnel include all civilian employees, including special Government employees; all employees of non-appropriated fund activities; all Regular and Reserve component officers (commissioned and warrant) and enlisted members on active duty; all personnel, including uniformed members of the Public Health Service (PHS) and Department of Defense (DOD), assigned or detailed to the Coast Guard for 30 days or more; Reserve officers (commissioned and warrant) and Reserve enlisted members, whether performing official duties or not, while on inactive or active duty for training and while earning retirement points pursuant to Title 10, U.S.C.; faculty, staff, and cadets at the Coast Guard Academy; and an expert or consultant who is under contract with the Coast Guard pursuant to 5 U.S.C. §3109.
- c. Gifts. Gifts for the purpose of this Instruction include anything of monetary value, including but not limited to, cash; gifts in kind which include property, real and personal; and services. Restricted gifts include any gifts upon which the offerors have placed restrictions or designations as to use.
- d. Liaison. Liaisons are Coast Guard personnel designated by the Program Director to establish and maintain contact with the Associations. All Flag/SES level personnel are designated as liaisons. Liaisons represent the interests of the Coast Guard and may not participate in the internal management of any Association. Liaisons are also prohibited from nominating individuals to serve as directors or officers of, or receive membership in The Coast Guard Foundation. Liaisons may attend Associations functions, including fundraising events, but may not actively and visibly participate in fundraising or solicitation of members, except as authorized by 5 C.F.R. Part 2635. It is not intended for the Liaisons to conduct business or reach agreements with the Associations. This is the

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responsibility of the Program Director and Program Manager. Liaisons may attend events of the Associations on official time and at Government expense. Further, they may use Government time and resources to prepare for their participation in the event.

- (1) The Program Director may designate additional personnel to serve as liaisons.
  - (2) The Program Director may delegate authority for Coast Guard personnel to conduct business or reach agreements with the Associations.
- e. Program Director. The Vice Commandant (G-CV). See paragraph 8.a.
- f. Program Manager. The Director of Finance and Procurement, Commandant (G-CFP). See paragraph 8.b.
- g. Prohibited Source. For gifts to, and interaction by, individual Coast Guard personnel, as defined above, the term "prohibited source" includes any person or entity who: is seeking official action by the Coast Guard; does business or seeks to do business with the Coast Guard; conducts activities regulated by the Coast Guard; has interests that may be substantially affected by the performance or nonperformance of the employee's official position; or, is an organization a majority of whose members meet one or more of these criteria. In addition, if any individual holding a position as the Chief Executive Officer (salaried) or the Chief Executive Officer (volunteer), or the equivalent thereof, in an Association is a prohibited source, the Association will be treated as a prohibited source. The status of the Associations will be determined annually in conjunction with the review of annual reports of these organizations. The Program Director has designated the Director of Finance and Procurement, Commandant (G-CFP) as the prohibited source point of contact. In this capacity the Director of Finance and Procurement is responsible for the determination of which donors are prohibited sources and whether acceptance of gifts from them is authorized.
- h. The Standards. The Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, govern the actions of individual Government employees in both their official and personal capacities. The substantive provisions in the Standards provide specific guidance in seven substantive areas: acceptance of gifts, conflicting financial interests, impartiality in performing official duties, seeking outside employment, misuse of position, and outside activities. The Standards do not govern agency interactions with non-Federal entities although they do govern the actions of individual Government employees in support of those interactions.
- i. Widely Attended Gatherings. Gatherings which are open to attendees from throughout a given industry or profession, or the attendees of which represent a range of persons interested in a given matter.

## 6. POLICY and PROCEDURES.

- a. Participation of Coast Guard personnel in the Associations' activities. The high visibility of Coast Guard officials often generates requests to use an official's title or position in conjunction with fundraising or membership drive activities. While personal participation in such activities is not precluded, it may prove impossible to distinguish private support from official endorsement. Consequently, personal participation by such officials is cautioned. Guidance is provided below for all Coast Guard personnel on participation, personal and official, in events and activities of the Associations.

### (1) Authorized Participation.

- (a) Fundraising. Coast Guard personnel may participate in fundraising activities in a personal capacity if they do not use their official title, position or authority (e.g., Captain Smith, Chief, Short Range Aids to Navigation Division) in conjunction with the fundraising effort or personally solicit funds or other support from subordinates or from anyone known to them to be a prohibited source. Coast Guard personnel who engage in fundraising activities in a personal capacity may use or permit the use of their rank in conjunction with the activities (e.g., CAPT Smith, USCG). While attending a fundraising event in a personal capacity, Coast Guard personnel are not authorized to wear uniforms.

1. Coast Guard personnel may attend fundraising events in their personal capacity provided that, to their knowledge, their attendance is not being used to promote the event. Further, Coast Guard personnel may accept the sponsor's offer to waive the fee that others are being charged to attend the event if the event has been determined to be a widely attended gathering. However, where a particular Coast Guard invitee is in a position to substantially affect the interests of the sponsor a written determination of agency interest in attendance by the employee must be made by the invitee's servicing legal office using the criteria set forth in 5 C.F.R. §2635.204(g)(3)(i).

2. Attendance in an official capacity. In most cases, attendance at events sponsored by the Associations is governed by the Standards. For example, the Standards permit a Government employee to attend an event which has been determined in advance to be a widely-attended gathering or to participate in a function at which he will be receiving an award. (There are times when the Associations invite the awardee and/or their supervisor out for dinner after an awards event. In general, an invitation to dine at another's expense is a gift (5 C.F.R. § 2635.203(b)). But, the awardee and/or their supervisor could accept a dinner invitation from the Associations if they were not a prohibited source and the circumstances suggested that the dinner

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invitation was extended because of the awardee's particular accomplishments rather than because of their position within the Coast Guard). In some cases this advance determination must be in writing. Standards of Conduct, COMDTINST M5370.8 (series) provides guidance on obtaining approval to attend widely attended gatherings. Coast Guard personnel who participate in Association activities in an official capacity may do so in uniform and may utilize Government resources in conjunction with the participation (e.g., use of an official Government vehicle for transportation to and from the event). Note: Coast Guard Foundation Dinners should be treated as a fundraising event. Any Coast Guard member attending the dinners should govern their conduct in accordance with this instruction.

- (2) Unauthorized Participation. Coast Guard personnel are prohibited from using or permitting the use of their titles or positions to solicit and raise funds or solicit members for the Associations. Engaging in these activities could create the appearance that public office is being exploited. Coast Guard personnel may not participate in the internal management of the Coast Guard Foundation, including such positions as a member of a management committee, director, or as a named corporate officer. The acceptance of a position, honorary or otherwise, violates this proscription. Coast Guard personnel may not participate in fundraising in an official capacity for any of the Associations. Under the Standards, "participate" means active and visible involvement in the promotion, production, or presentation of the event and includes serving as honorary chairperson, sitting at a head table during the event, standing in a reception line, or public speaking. While the term generally includes any public speaking during the event, it does not include the delivery of an official speech as defined in this section. Nor does it include any seating or other participation appropriate to the delivery of an official speech. Official speeches are given by an employee in their official capacity on a subject matter that relates to their official duties, provided that the employee's agency has determined that the event at which the speech is to be given provides an appropriate forum for the dissemination of the information to be presented and provided that the employee does not request donations or other support for the nonprofit organization. Note that mere attendance at a fundraising event does not constitute participation under the Standards.
- b. Gift Acceptance. A gift to the Coast Guard becomes Coast Guard property only when the gift is accepted, in writing, by the Secretary, Commandant, or their delegee. Gifts may only be accepted for items or purposes for which appropriated and non-appropriated funds would normally be legally available and in compliance with law, regulation, and Departmental policy.

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c. Policy governing acceptance of gifts from the Associations.

- (1) The procedures in this paragraph apply to gifts offered by donors to the Coast Guard through the Associations. This Instruction does not govern acceptance procedures for gifts given directly to the Associations with no requirements for future transfer to the Coast Guard.
- (2) The Commandant has been delegated the authority to accept gifts, of any dollar value, offered to the Coast Guard by the Associations. DOT (S-1) ltr of 30 May 1995.
- (3) The Commandant has redelegated this authority to the Vice Commandant and to the Director of Finance and Procurement, Commandant (G-CFP). All gift offers must be submitted to Commandant (G-CFP) unless redelegated as below.
- (4) Delegations of Gift Authority from Commandant (G-CFP). The following delegations of authority are subject to the limitations set forth in paragraph 5 below.
  - (a) The Superintendent of the Coast Guard Academy may accept gifts offered to the Academy by any of the Associations if the estimated value of the gift is \$5,000 or less. This may not be re-delegated.
  - (b) Any gifts contained in the Coast Guard Academy's Funding Request List (e.g. Vans, memorials, etc), which has been approved by the Program Director, may be accepted by the Superintendent of the Coast Guard Academy regardless of dollar value.
  - (c) The Associations may accept gifts offered to them for further transfer to the Coast Guard if the estimated value of the gift is \$5,000 or less.
- (5) The following gifts may only be accepted by Commandant (G-CFP).
  - (a) For the Coast Guard Academy.
    1. Gifts from any source that exceed \$5,000.
    2. Gifts from prohibited sources that exceed \$500.
    3. Restricted gifts that exceed \$500.
    4. Gifts of boats.

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5. Gifts of travel and travel-related expenses accepted under the GSA Travel Rule, 41 C.F.R., Part 304, which exceed the authority delegated under the provisions of the Financial Resource Management Manual.
- (b) For all Headquarters Offices and all other Coast Guard Commands.
1. All gift offers made to the Coast Guard from the Associations can only be accepted by the Director of Finance and Procurement. Refer to the Financial Resource Management Manual (COMDTINST M7100.3A) on policies for the acceptance of gifts from non-Federal sources
- (6) For purposes of determining who has the authority to accept specific gifts offered to the Coast Guard through the Associations and whether the donor of a particular item is a prohibited source, the source of the gift is not the Associations but the donor of the gift to the Associations. **Exception: Gifts from an Association which are the result of unrestricted donations to the Association from more than one donor are presumed to come from the Association. Gifts given to the Association which the donor specifies are to be passed on to the Coast Guard are considered a gift from the original donor. Decisions as to who has the authority to accept the gift and whether the donor is a prohibited source should be based on the original donor status.**
- (7) Gifts from the Associations may only be accepted in accordance with the policy and procedures set forth in this Instruction. Further redelegation of gift acceptance authority is prohibited.
- (8) All offers of gifts between the Associations and the Coast Guard must be in writing.
- (9) At the time a gift offer is received a determination must be made on whether the donor is a prohibited source.
- d. Policy regarding approval of gifts offered to the CG via the Associations.
- (1) Procedures for gift acceptance. A request must be submitted in writing to Commandant (G-CFP). Signed faxes are acceptable followed by original in the mail. The request must contain, at a minimum: the name and address of the donor; the name of the organization or donor's employer as applicable; the value or estimated value of the gift; and any restrictions imposed by the donor. Commandant (G-CFP) will respond to the request in writing. Units with gift acceptance authority should publish local policy and procedures for processing gift offers.
  - (2) Procedures for acceptance from a Prohibited Source. If Commandant (G-CFP) determines that the donor is a prohibited source, then a conflict of interest analysis

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will be prepared by Commandant (G-LGL) during the acceptance process for gifts valued greater than \$500.

- (3) Procedures for transferring boats to the Coast Guard from the Associations. Upon receipt of a letter of acceptance from the Commandant, a signed Deed of Gift should be provided to Commandant (G-CFP) by the Associations (see enclosure (1)). The signed Deed of Gift should be mailed to Commandant (G-CFP). Signed faxes are acceptable followed by original in the mail.
- (4) Procedures for accepting pledges offered to the Associations. Pledges shall be treated as a gift, at the time the pledge is made, for purposes of determining applicability of gift acceptance procedures. All pledges should be in writing.
- (5) Procedures for endowments offered to the Associations. One of the following three methods of accepting interest generated by endowments should be used:
  - (a) When an endowment is donated to the Associations and interest from the endowment is to be transferred to the Coast Guard, each individual interest payment from the endowment is treated as a separate gift and should be handled in accordance with the procedures in this Instruction.
  - (b) The Association could pledge all future interest earned from the endowment to the Coast Guard at the time the endowment is received. This would allow the endowment and subsequent interest payments to be treated as a single gift.
  - (c) If the endowment is donated to the Coast Guard directly by the donor or by the donor through the Association, then the Coast Guard could accept the endowment as a gift and any interest earned by the endowment would simply belong to the Coast Guard with no gift implications.
- e. Authorized support of the Associations with Coast Guard appropriations. Appropriated funds and government property may not be used to directly support the Associations unless such support is expressly authorized by statute. However, the expenditure of appropriated funds for legitimate purposes consistent with the purpose of the appropriation, but which indirectly support the Associations is authorized. For example, appropriated funds may be expended to allow personnel designated as liaisons to the Associations to attend authorized meetings. On the other hand, government property, such as a government vehicle, may not be provided to the Associations for their use. In a specific situation, determining whether support is authorized depends upon whether the support makes a direct contribution to carrying out a Coast Guard mission and is not otherwise prohibited by law. Specific questions should be referred to the servicing legal office.



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f. Use of the Coast Guard name or identifying device.

- (1) A private organization, including the Associations may use the Coast Guard name only with the written approval of the Commandant. 14 U.S.C. §639.
- (2) Approval for use of the Coast Guard name may be withdrawn by the Commandant or his delegatee

g. Federal and State regulation of the Associations. As a condition of retaining the privilege of using the "Coast Guard" name, the Associations must comply with all applicable laws, regulations and instructions, including state and local laws and regulations. The Coast Guard may disassociate itself from any organization that does not comply with applicable laws and regulations, participates in any criminal activity, or participates in any activity of a prejudicial or discreditable nature. Acts of any agent or employee may be imputed to the organization and may serve as the basis for disassociation. Disassociation may include, but is not limited to, rescinding authorization for use of the Coast Guard name and non-acceptance of gifts.

h. Annual Reports.

- (1) All Associations will submit the following to Commandant (G-CFP):

(a) Due 30 April

1. List of their officers, directors and/or members which includes the name of the company they work for, the general nature of the company's business, any official action pending with the Coast Guard and the officers and directors or any interest that may be affected by the performance or nonperformance of CG personnel. CGPA and CGAAA membership list may be retained at the Association's office for Coast Guard review rather than submitting when the Annual Report is due;
2. Financial statements audited in accordance with generally accepted accounting principles. CGF will submit their preliminary financial statements;
3. Report of all donations received for future transfer to the Coast Guard or gifts that are retained by the Associations valued greater than \$500. Required lists of all donations should include date of the gift, amount, purpose, donor (provide employer and title for a private donor) and disposition of gifts; and
4. Annual Income Tax Return.

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(b) Due 1 October

1. CGF audited financial statements.
2. CGF annual income tax return.
- i. Sales of Gift. Unless the purchase is made at a well publicized public sale or auction, the following individuals are prohibited from purchasing items donated to and subsequently sold by the Associations: Coast Guard personnel; dependents and spouses of Coast Guard personnel (see definition at para. 5.b.); Coast Guard Auxiliarists; anyone employed by or in any way associated with the Associations or the dependents or relatives of such individuals.

7. ACCOUNTING FOR GIFTS TO THE COAST GUARD.

- a. Gifts of cash/securities and other personal property. All gifts of cash/securities and other personal property from the Associations to the Coast Guard must be processed in accordance with The Standard Operating Procedures (SOP), FINCENSTFINST M7000.1. This processing must occur regardless of the amount of the gift.
- b. Gifts of real property. All gifts of real property from the Associations must be processed in accordance with COMDTINST M11011.13 (series), Real Property Manual.
- c. Documentation supporting the acceptance of gifts of cash, checks and securities must be transmitted to the Coast Guard Finance Center (FF) and reflected in the Coast Guard Gift Fund accounting records and financial statements.

8. PROGRAM MANAGEMENT.

- a. Program Director. The Vice Commandant (G-CV) is the Program Director to the Associations. As Program Director, the Vice Commandant (G-CV) may designate additional persons as liaisons. These individuals may represent the Coast Guard, provide information, or clarify issues of protocol.
- b. Program Manager. Commandant (G-CFP), is the program manager responsible for the day-to-day management of issues regarding the reports of, and the mechanics of accepting gifts from, the Associations.



R. D. HERR

Encl: (1) Deed of Gift

(Association Letterhead)

## DEED OF GIFT

This DEED OF GIFT, by the (name of Association), hereinafter called DONOR, is effective on the date of acceptance by the Office of the Commandant of the U.S. Coast Guard, as delegated, hereinafter called DONEE.

The DONOR, being the owner of a (make) (length) (type of vessel) (name of vessel), together with all other necessities thereunto appertaining and belonging to said vessel, does hereby, give, grant, transfer, and deliver unto said DONEE said vessel. DONOR shall deliver said vessel to the DONEE together with good and sufficient documentary evidence of transfer of title, or otherwise. Said vessel shall revert to the DONOR at such time as the DONEE no longer desires use of same. It is further understood that in that event the DONEE shall deliver said vessel to the DONOR together with good and sufficient documentary evidence of transfer of title, or otherwise.

All required maintenance and repair to the vessel will be performed or funded by the DONEE while it is in possession of the vessel. However, the donee's obligation to expend appropriated funds will be limited to an amount necessary for the continued Government use of the equipment while the equipment is in the possession of the Government.

IN WITNESS WHEREOF, the said DONOR has hereunto set its hand and seal by its (Position), pursuant to the authority conferred upon him by the Board of Directors of (Name of Association).

(Name of Association)

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(Name)  
(Position)

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Accepted by the Commandant  
U.S. Coast Guard, as delegated

